

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

Case No. 5:23-cv-00379-M

ERIC RADEFELD,)
)
Plaintiff,)
)
v.)
)
WAKEMED,)
)
Defendant.)

ORDER

This matter comes before the court on the Defendant's Motion to Dismiss [DE 6]. This court referred the matter to United States Magistrate Judge Robert B. Jones, Jr., who issued a memorandum and recommendation ("M&R") pursuant to 28 U.S.C. § 636(b)(1)(B) and Federal Rule of Civil Procedure 72(b) [DE 12]. Judge Jones recommends that this court grant the motion and dismiss the complaint for Plaintiff's failure to properly serve process, the court's lack of personal jurisdiction over the Defendant, and Plaintiff's failure to state plausible claims for relief.

A magistrate judge's recommendation carries no presumptive weight. *Elijah v. Dunbar*, 66 F.4th 454, 459 (4th Cir. 2023). The court "may accept, reject, or modify, in whole or in part,

¹ The case docket reflects that a copy of the M&R, addressed to Plaintiff, was returned to the court as undeliverable. DE 13. Plaintiff provided the address used by the court for delivery by United States mail. DE 1-1 at 1, 3, 5, and 7. Notably, no other document sent by this court to Plaintiff via U.S. mail was returned, including the court's instruction that Plaintiff file any response to Defendant's motion to dismiss on or before August 15, 2023. *See* DE 5, 8. In addition, Defendant noted its conferral with Plaintiff on or about August 4, 2023, regarding a motion for extension of time. *See* DE 10. Notwithstanding these communications, Plaintiff has filed nothing in this case.

the . . . recommendation[] . . . receive further evidence or recommit the matter to the magistrate judge with instructions.” 28 U.S.C. § 636(b)(1); *accord Mathews v. Weber*, 423 U.S. 261, 271 (1976). The court “shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” *Id.* § 636(b)(1). Absent a specific and timely objection, the court reviews only for “clear error” and need not give any explanation for adopting the recommendation. *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005).

Upon careful review of the M&R and the record presented, and finding no clear error, the court ADOPTS the recommendation of the magistrate judge as its own. For the reasons stated therein, Defendant’s Motion to Dismiss [DE 6] is GRANTED and Plaintiff’s claims are DISMISSED. The Clerk of Court is directed to close this case.

SO ORDERED this 28th day of September, 2023.



RICHARD E. MYERS II
CHIEF UNITED STATES DISTRICT JUDGE